

Appl. No. 09/755,408
Atty. Docket No. 7903M
Amdt. Dated October 6, 2003
Reply to Final Office Action of August 5, 2003
Customer No. 27752

REMARKS

Claims 1, 10, 21, and 28 have been amended in response to the rejections of the Office Action. No new matter has been added. Claims 1, 3-5, 8-14, 16-17, and 24-34 remain in this Application and are presented for the Examiner's reconsideration in light of the above Amendments and the following comments.

Rejection Under 35 U.S.C. §112

Claims 1, 3-5, 8-14, 16, 17, and 21-34 have been rejected under 35 U.S.C. §112, ¶1 as failing to comply with the enablement requirement. Specifically, the Office Action rejects claims 1 and 10 over the language that the strut is articulably connected to the sidewall. Claims 1 and 10 have each been amended to clarify that the strut in each claim is articulably connected to the container.

Claim 21 has been amended to provide that the strut is releasably connected to the sidewall and claim 22 has been amended to provide that the strut is articulably joined to the container. Claim 28 has been amended to remove the limitation that the panels are articulably connected to the sidewalls.

Applicants submit that the claims as amended are enabled by the specification.

Rejection Under 35 U.S.C. §102

Claims 1, 3, 4, 10-14, 17, 21-23, and 28-34 have been rejected under 35 U.S.C. 102(e) as being anticipated by Quirion, U.S. Patent No. 6,050,410. *Quirion* fails to teach or suggest each of the limitations of the invention as claimed. Specifically, *Quirion* fails to teach or suggest the releasable engagement by the struts of the container to provide reinforcement of the sidewalls.

As provided by the Office Action, either elements 50 and 52 or alternatively elements 64 and 66 comprise the struts of the claimed invention. None of the cited elements releasably engages the container to provide reinforcement for the sidewalls of the container. In each of the provided interpretations the reference fails to teach or suggest each of the claimed limitations of the invention.

Claims 1, 3, 4, 10-14, 16, 17, 21-23, and 28-34 have been rejected under 35 U.S.C. 102(b) as being anticipated by Bolton, Sr., U.S. Patent No. 4,606,461. The *Bolton Sr.* reference fails to teach or suggest each of the claimed limitations of the present invention much in the same manner as the *Quirion* reference. *Bolton Sr.* fails to teach struts which articulably and also releasably engage the container to provide reinforcement for the container sidewalls and disengage to cease to provide reinforcement.

This rejection should be reconsidered and withdrawn.

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Rejection Under 35 U.S.C. §103

Claims 5, 8, 9, and 24-27 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Quirion* and *Bolton Sr.* in view of *Harrison*. The *Harrison* reference teaches the use of a tabbed internal container in conjunction with a tab accepting external container to form a composite container. The *Harrison* reference is offered to provide a teaching of the use of interacting tabs and apertures in view of claims 5, 8, 9, and 24 -27. Applicants submit that the proposed combination is improperly motivated by a hindsight view of Applicants claimed invention.

The combination is improper in that *Harrison* is added for the idea of using tabs and slots to join package elements to each other. The *Quirion* and *Bolton Sr.* references do not teach that the sidewalls and struts are joined but simply illustrate a reinforcement of sidewalls with struts that are brought to a position adjacent to the designated sidewalls. Neither reference teaches a need for any type of attachment between sidewall and strut and the only motivation to introduce a means for such an attachment is the claimed invention. *Harrison* is not properly introduced to illustrate an alternative means for joining struts to sidewalls over the means taught in *Quirion* or *Bolton Sr.* *Harrison* is introduced to fill the gap in the teaching of *Quirion* or *Bolton Sr.* when the teaching of the references is compared -improperly in hindsight - to the claimed invention.

Claims 14 and 32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Quirion* and *Bolton Sr.* The deficiencies of the teaching of either *Quirion* or *Bolton Sr.* with regard to the claimed invention are not overcome by the taking of Official Notice that fluted cardboard is well known. This rejection should be reconsidered and withdrawn.

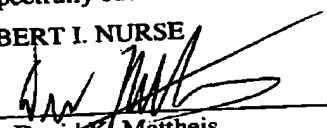
Conclusion

Based on all the foregoing, it is respectfully submitted that each of Applicant's remaining claims is in condition for allowance and favorable reconsideration is requested.

This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512. If any additional charges are due, the Examiner is authorized to deduct such charges from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,

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